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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the matter of	)	
	)	
Connecticut Department of	)	RM No. 9258
Public Utility Control	)	
Petition for Rulemaking	)	
	)	

OPPOSITION OF THE UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association (USTA),[1] through the undersigned and pursuant to the Public Notice[2] released by the Federal Communications Commission (Commission) in the above-captioned proceeding, hereby files its opposition to the Petition of the Connecticut Department of Public Utility Control for Amendment to Rulemaking (Petition). In the Petition, the Connecticut Department of Public Utility Control (Connecticut) asks the Commission to "amend its August 8, 1996 Second Report and Order and Memorandum Opinion and Order in FCC 96-333, . . . , relative to area code relief, specifically, service specific overlays."[3] It is Connecticut's contention that "given the current nationwide shortage of NPAs and the lack of competition between the wireline and wireless industries, it is appropriate for the FCC to revisit

[1] USTA is the nation's oldest trade organization for the local exchange carrier industry. USTA currently represents more than 1200 small, mid-size and large companies worldwide.

[2] Public Notice, RM No. 9258, DA 98-743 (rel. Apr. 17, 1998).

[3] Petition at p. 1.

its decision against service specific overlays last addressed in its Second Report and Order, relative to area code relief, specifically, service specific overlays."[4] In response to the Petition, the Commission has asked for comments on whether it should initiate a rulemaking on the issues raised in the Petition.[5] The Commission asks if circumstances have changed since its initial decision prohibiting technology-specific or service-specific overlays that would warrant a change in the rule and how service-specific overlays would affect number conservation, local number portability, number pooling and any other initiatives concerning telecommunications numbering resources.[6] For the reasons discussed below, USTA urges the Commission to deny the Petition.

DISCUSSION

I. A Rule Change Is Not Warranted

In its Petition, Connecticut states that it "concurs with the FCC's requirement that the presence of any one of the following elements (i.e., exclusion, segregation, or take-back) should cause the prohibition of the implementation of a service specific overlay plan."[7] Connecticut does not challenge the underlying premise for the Commission's prohibition against service-specific overlays -- that the segregation of "particular types of telecommunications services or particular types of telecommunications technologies in discrete area codes would be

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[4] Id. at p. 4.

[5] Public Notice at p. 2.

[6] Id.

[7] Petition at p. 5.

unreasonably discriminatory and would unduly inhibit competition."[8] Connecticut maintains, though, that where there is no existing competition between wireline and wireless services and where it does not "appear that competition between the two industries will exist in the very near future[,]"[9] "service specific overlays can not offer one telecommunications industry an advantage over another."[10] Accordingly, it concludes that since area code relief is needed in Connecticut and "since competition does not currently exist between the industries [wireless and wireline], service specific overlays should be permitted."[11] USTA disagrees.

A rule that addresses national policy should be amended or rescinded if it can be demonstrated that the law authorizing the rule has changed or that the circumstances which resulted in the adoption of the rule have changed or no longer exist. In the case of the Petition, neither the law has changed nor has Connecticut offered evidence in the Petition on the matter of competition between wireless and wireline services that would justify modifying the Commission's rule prohibiting service-specific or technology-specific area code overlays.

Connecticut has presented no evidence concerning wireless and wireline competition outside of Connecticut. Even if the Commission were persuaded that Connecticut's Petition makes the case that there is not material competition between wireless and wireline services in

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[8] Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, CC Docket No. 96-98, Second Report and Order and Memorandum Opinion and Order, 11 FCC Rcd 19392, 19518, ¶ 285, (1996) (Second Report and Order), petitions for reconsideration pending, vacated in part, People of the State of California v. FCC, 124 F.3d 934 (8th Cir. Aug. 22, 1997), cert. granted, sub nom. AT&T Corp. v. Iowa Util. Bd., 118 S.Ct 879 (Jan. 26, 1998).

[9] Petition at p. 8.

[10] Id. at p. 10.

[11] Id.

Connecticut, that alone should not result in a modification or recision of the prohibition. A national policy change that will have significant competitive, market and consumer impacts throughout the nation should not be driven solely by the experiences of one state. If the case can be made by Connecticut that the near and long term prospects for competition between the wireless and wireline industries in Connecticut is so dismal, and so different, from what is occurring elsewhere in the nation, perhaps the relief that it should seek is a Connecticut-specific waiver of the overlay rule.[12] It is not appropriate or prudent to change national policy on the basis of the showing made by Connecticut in its Petition.

The national view of competition between wireless and wireline services is far more encouraging than the picture painted by Connecticut. A recent feature article in the Wall Street Journal highlighted the robust competition among wireless providers in Jacksonville, Florida, that has resulted in dramatic price decreases for wireless service.[13] It was reported that over the last 18 months, Jacksonville has seen the number of wireless competitors increase from two to six companies.[14] As a result of the increased competition, Jacksonville consumers have seen prices for wireless service decrease by an average of 46%.[15]

> The newcomers have cut prices more than even they had anticipated, offering cheap, unlimited-usage packages once unknown and forcing sharp rate reductions

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[12] It should not be inferred that USTA would support a petition for a Connecticut-specific waiver of the Commission's rule.

[13] **Yakking It Up**, For Wireless Services, Talk Gets Far Cheaper As Competition Rages, Wall Street Journal, 4/27/98, at p. 1.

[14] Id.

[15] Id.

by the two incumbents.[16]

The report concluded that Jacksonville's experience presages what other cities throughout the nation can expect.

Connecticut acknowledges that even in Connecticut there is competition among wireless providers.[17] Its contention is that there is not now, nor is there likely to be in the near term, competition between wireless and wireline providers such that the Commission should be concerned about the competitive disadvantages to wireless providers as a result of a wireless-specific area code overlay in Connecticut. This seems to be a short-sighted perspective.

If the impacts of competition among wireless providers in Connecticut are any where near as dramatic as the impacts in Jacksonville, it is difficult to understand Connecticut's pessimism concerning the prospects for competition between wireless and wireline services in the future. Dramatic price reductions for wireless service, improved service quality as a result of technological advances and conversion to digital equipment, and an increasingly mobile society seem to present a set of circumstances that strongly suggest that wireless service will ultimately prove to be a viable alternative or substitute for wireline service for many people in many service areas. Even today, there are reports of customers who have given up their wireline service and exclusively use wireless service for their voice communications, or at least frequently use wireless service as an alternative to wireline service.

Further, even if Connecticut is correct as to the state of competition in the near term, what

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[16] Id.

[17] Petition at p. 8.

corrective action does Connecticut propose to take when cross-service competition does emerge? It seems that once the decision is made to employ a wireless-specific area code overlay, undoing the deed later presents another set of potentially disruptive issues. Connecticut should be required to address whether it will continue with a wireless-specific area code once cross-service competition emerges. If it will, Connecticut should be required to explain how that will serve the public interest. If it does not plan to continue with a wireless-specific area code, it should explain how it plans to revert back to nonservice-specific area codes.

While it may not be possible to predict with precision when and where wireless service will become substitutable for wireline service, two things seem apparent: 1) the trend line shows that in many areas across the nation, on the basis of price and service quality, wireless service is moving toward the point of substitutability with wireline service;[18] and 2) the implementation of wireless-specific area code overlays will, in the long term, impede and not facilitate the occurrence of cross-service competition. Accordingly, absent a far more compelling showing than that made by Connecticut, the Commission should deny the Petition and maintain its currents prohibition against service-specific and technology-specific area code overlays.

II. Connecticut Has Not Presented A Persuasive Case For Local Relief

Certainly, deference ought to be accorded to a state public utility commission with respect to assessments concerning area code relief and local public interests.[19] Nonetheless, the Commission has a role in ensuring that competition is neither unnecessarily nor unreasonably

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[18] In some instances, it is substitutable for wireline service today.

[19] Second Report and Order at ¶ 283.

constrained as a result of state numbering administration decisions.[20] Even if the Commission were to view Connecticut's Petition as a request for Connecticut-specific relief and not one requiring a national rule change, Connecticut has failed to address itself to several important considerations in its Petition. The Petition speaks generally to "policies and actions to promote telecommunications competition"[21] that have been undertaken by Connecticut. The Petition does not, though, address: how the problem of number exhaustion in the 203 and 860 area codes would be affected by moving to a wireless-specific area code overlay; what the financial and customer relations impacts of a number take-back would be on wireless carriers; or what the costs and disruptions would be for wireless service customers as a result of a number take-back. Connecticut should be required to address itself in a thorough and detailed manner to these matters before the Commission gives any consideration to the Petition.

Based upon Central Office Code Utilization Survey (COCUS) filings in the Connecticut Management of Numbers Resources proceeding (Docket No. 96-11-10), and the rapid rate of NXX code assignment since the introduction of local competition in the 860 area code, it would appear that return of all wireless numbers would extend the life of the 203 and 860 area codes by about one year, assuming that the numbers taken back could be immediately reused. This being the case, and putting aside the issue of the long-term competitive impacts of a wireless-specific area code overlay, it would appear that serious questions arise as to whether the unavoidable costs and disruptions to wireless carriers and their customers would be a reasonable trade-off for

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[20] Id. and 47 U.S.C. § 251(e)(1).

[21] Petition at p. 8. See also pp. 2-4.

a one year reprieve in the inevitable exhaustion of numbers in Connecticut's existing area codes. Before the Commission considers either national or local relief based upon the Petition, it should independently assess whether all of the interests that stand to be negatively affected can be justly and reasonably offset against the short-lived number relief that would be achieved.

III. Billing Issues Should Not Be Resolved At The Expense Of Sound Number Administration Practice

Connecticut states that a wireless-specific area code may facilitate the implementation of "calling party pays" service.[22] Although this is not the appropriate proceeding in which to debate the verities of this point, USTA feels compelled to state that the Commission should ensure that there is thorough industry discussion of the idea before consideration is given to using specific numbering resources for the identification of a billing arrangement. This is not a matter which must be addressed in order to act on the Petition, and USTA urges the Commission to make no decision with respect to this matter here.

[22] Petition at p. 10.

CONCLUSION

On the basis of the foregoing, USTA requests that the Petition be denied.

Respectfully submitted.

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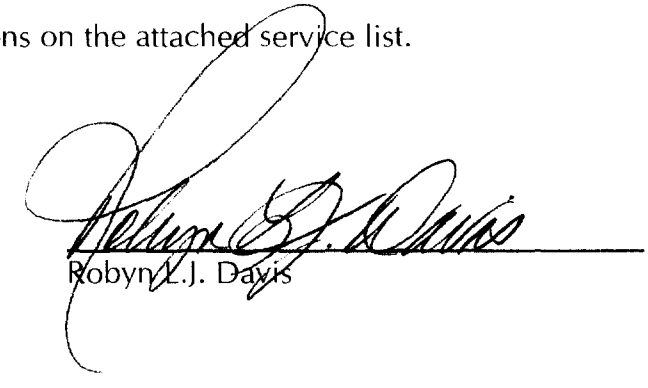
May 7, 1998

CERTIFICATE OF SERVICE

I, Robyn L.J. Davis, do certify that on May 7, 1998 copies of the Opposition of the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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